

#3

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on June 15, 2000

Drew R. Herndon

(Typed or Printed Name of Person Mailing Paper or Fee)

Drew R. Herndon
(Signature of Person Mailing Paper or Fee)



PATENT
Attorney Docket No. 22379-707

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
)	
Hadi Partovi et al.)	Group Art Unit: 2768
)	
Application No.: 09/513,236)	Examiner: Unknown
)	
Filed: February 24, 2000)	
)	
For: METHOD AND APPARATUS FOR)	
CONTENT PERSONALIZATION)	
OVER A TELEPHONE INTERFACE)	
WITH ADAPTIVE)	
PERSONALIZATION)	

PETITION UNDER 37 C.F.R. § 1.47(a)

Commissioner for Patents
Box DAC
Washington, D.C. 20231

Sir:

In accordance with the provisions of 37 C.F.R. § 1.47(a), Applicants hereby petition the Commissioner to allow filing of the above-identified application without the oath or declaration of joint inventor **Zhe Li**, who cannot be reached for signature. This petition is accompanied by (1) an oath and declaration executed by joint inventors Hadi Partovi, Roderick S. Brathwaite, Angus M. Davis, Michael S. McCue, Brandon W. Porter, John Giannandrea, Eckart Walther and Anthony Accardi, each on his own behalf, and on behalf of non-signing inventor Zhe Li pursuant to 37 C.F.R. § 1.63 and MPEP 409.03(a); (2) a Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor recited herein; (3) an affidavit with exhibits in support of the present petition by Erik Oliver, Attorney for Applicants, constituting Proof of Unavailability or Refusal (MPEP 409.03(d)); (4) a

statement of Last Known Address (MPEP 409.03(e)) recited herein; (5) a response to the Notice to File Missing Parts dated April 20, 2000, including all required documents and applicable filing fees; and (6) the petition fee of \$130.00 as set forth in 37 C.F.R. § 1.17(i).

STATEMENT OF FACTS & DECLARATION

On or about December 17, 1999 Zhe Li, a joint inventor of the above-identified patent application, left the United States to pursue other interests. Since Mr. Li's departure preceded completion of the present application and subsequent filing thereof, it was not possible to prepare an oath or declaration for his signature prior to his departure. The present application was filed on February 24, 2000 without executed formal documents. Applicants received a Notice to File Missing Parts dated April 20, 2000. In accordance with the provisions of 37 C.F.R. § 1.63, an oath and declaration was prepared for signature by all the joint inventors in the above-identified patent application, and forwarded to the inventors for execution on March 21, 2000. However, joint inventor Zhe Li has been unavailable to execute the oath and declaration and thereby complete the requirements for filing a utility patent application under 37 C.F.R. §§ 1.53 and 1.63. Attorney for Applicants made a diligent effort to reach Mr. Li and obtain his signature on an oath and declaration, as attested to by the facts recited briefly herein, and enumerated in detail with supporting documentation in the attached affidavit of Erik Oliver.

An attempt to contact Zhe Li via an e-mail address provided by him was initially made on April 20, 2000 requesting contact for the purpose of executing formal documents for the present application. A second attempt was made to contact Mr. Li via e-mail on May 31, 2000 (copy of e-mail attached). No reply was received to either e-mail request. Also on May 31, 2000, a letter was sent via both Federal Express and Certified Return Receipt U.S. Mail to Mr. Li at his last known address (copy attached). Both letters were returned as undeliverable. In addition, Attorney for Applicants placed a telephone call on May 31, 2000 to the most current phone number provided by Mr. Li, and received a message that it was a non-working number. No communication of any kind has been received from Mr. Li in the interim.

In view of the above-noted circumstances, Applicants submit this Petition on Behalf of a Non-Signing Inventor (37 C.F.R. § 1.47(a)) in conjunction with a complete Response to the Notice to File Missing Parts dated April 20, 2000.

Applicants assert that a *bona fide* attempt was made to have Mr. Li execute a declaration and join as an applicant for patent in the above-identified invention. Such attempt proved fruitless. Applicants therefore request that the application be considered filed under the provisions of 37 C.F.R. § 1.47(a) and MPEP § 409.03. Applicants further request that the attached Declaration for Utility Patent Application executed by co-inventors Hadi Partovi, Roderick S. Brathwaite, Angus M. Davis, Michael S. McCue, Brandon W. Porter, John Giannandrea, Eckart Walther and Anthony Accardi, each on his own behalf, be considered as having been executed on behalf of Zhe Li as required by 37 C.F.R. § 1.64, and in accordance with the provisions of MPEP § 409.03(a) subparagraph (A).

By signing below, I, the undersigned Attorney of Record hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true, having been warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and may jeopardize the validity of any patent resulting therefrom.

Last Known Address

In accordance with MPEP §§ 409.03(e) and 605.03, the last known post office address of Zhe Li is as follows:

75 Poncetta Drive, #2, Daly City, California 94015 USA

No other post office address or residence for Mr. Li is known to Applicants or Attorneys for Applicants.

Favorable action on this petition is respectfully solicited.

Please charge the Petition fee of \$130.00 under 37 C.F.R. 1.17(i) to Deposit Account No. 23-2415 (Docket No. 22379-707).

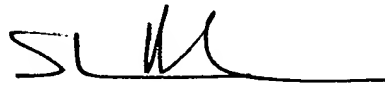
Application No. 09/513,236
Attorney Docket No. 22379-707

The Commissioner is hereby authorized to charge any additional fees that may be required by this paper, including Petition Fees and extension of time fees, and to credit any overpayment, to Deposit Account No. 23-2415 (Docket No. 22379-707). A duplicate of this paper is enclosed.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

By:



Shaliesh Mehra
Registration No. 44,934

650 Page Mill Road
Palo Alto, CA 94304-1050
(650) 493-9300

Date:

6/15/00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of:	PARTOVI, Hadi, et. al.	Group No.:	Not Yet Assigned
Attorney Docket No.:	22379-707	Examiner:	Not Yet Assigned
Serial No.:	09/513,236		
Filed:	24 February 2000		
For:	Method and Apparatus for Content Personalization over a Telephone Interface with Adaptive Personalization		
In re application of:	PARTOVI, Hadi, et. al.	Group No.:	Not Yet Assigned
Attorney Docket No.:	22379-708	Examiner:	Not Yet Assigned
Serial No.:	09/513,237		
Filed:	24 February 2000		
For:	Method and Apparatus for Content Personalization over a Telephone Interface with Locale-Based Personalization		
In re application of:	PARTOVI, Hadi, et. al.	Group No.:	Not Yet Assigned
Attorney Docket No.:	22379-709	Examiner:	Not Yet Assigned
Serial No.:	09/521,246		
Filed:	8 March 2000		
For:	Method and Apparatus for Content Personalization over a Telephone Interface with Time and Date Based Personalization		
In re application of:	PARTOVI, Hadi, et. al.	Group No.:	Not Yet Assigned
Attorney Docket No.:	22379-710	Examiner:	Not Yet Assigned
Serial No.:	09/523,853		
Filed:	13 March 2000		
For:	Method and Apparatus for Content Personalization over a Telephone Interface with Adaptive Voice Character		
In re application of:	PARTOVI, Hadi, et. al.	Group No.:	Not Yet Assigned
Attorney Docket No.:	22379-711	Examiner:	Not Yet Assigned
Serial No.:	09/524,680		
Filed:	14 March 2000		
For:	Method and Apparatus for Content Personalization over a Telephone Interface with Automatic Profile Generation		

Assistant Commissioner for Patents
Washington, D.C. 20231

AFFIDAVIT OF ERIK OLIVER IN SUPPORT OF
TELLME NETWORK'S PETITION UNDER 37 § 1.47

The following affidavit is made based on my information, belief, and knowledge:

Background

1. The following statements apply with equal force to each of the above captioned cases since in each of the above cases the same inventor, Zhe Li, is unavailable for the same reasons.
2. I am currently Intellectual Property Counsel for Tellme Networks, Inc. ("Tellme").
3. Prior to working at Tellme, I was patent counsel for Tellme in my capacity as an Associate of Wilson Sonsini Goorich & Rosati, P.C.
4. I have personal, firsthand knowledge of the efforts taken by Tellme to reach the unavailable inventor Zhe Li as they have occurred under my direction in both my capacity as outside patent counsel and in house patent counsel.

Facts about Mr. Li

5. Zhe Li is a Chinese national.
6. Zhe Li went by Anglicized name "Jay Li" and was first introduced to me as such.
7. Zhe Li left Tellme's employment on or about 17 December 1999 and sent an office wide electronic mail message indicating the same. (See Exhibit 1).
8. Zhe Li left Tellme on amicable terms of his own will to pursue, in his words, his "entrepreneurial interests" in China. (See Exhibit 1)
9. Zhe Li provided a future contact information comprising an electronic mail address of "zhe_li@firstwater.com" ("Firstwater e-mail address"). (See Exhibit 1)
10. Additionally, a telephone number in the San Francisco Bay Area was provided, 650-756-9265.
11. Separately, through discussions with other employees at Tellme, a second electronic mail address for Zhe Li of "jay_zhe_li@yahoo.com" was located. ("Yahoo e-mail address")
12. Tellme has the following postal address for Mr. Li in our employment files:

75 Poncetta Drive, #2
Daly City, CA 94015

Tellme's Diligent Efforts to Contact Mr. Li

13. On or about 14 April 2000, it was brought to my attention that Zhe Li no longer worked for Tellme.
14. On or about 20 April 2000, I was notified that Zhe Li had been sent electronic mail requesting his cooperation at his Yahoo e-mail address.
15. As of 31 May 2000, no reply was received to the above request.

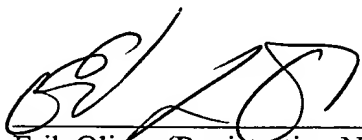
16. On 31 May 2000, I personally sent Zhe Li a follow up electronic mail request for his assistance to both his Firstwater and Yahoo e-mail addresses. (Exhibit 2)
17. As of 9 June 2000, no reply was received to the above request.
18. Despite knowing that Zhe Li could not be at the postal address in our file (since he indicated he was moving back to China), I personally sent a letter to that address by both Federal Express and certified mail (return receipt requested). (Exhibits 3-5)
19. On 6 June 2000, the Federal Express letter was returned as undeliverable.
20. On 9 June 2000, the certified return receipt requested letter was returned as undeliverable.
21. On 31 May 2000, I placed a call to the last telephone number he provided us (See 10, above). No parties could be reached at that number (number did not ring, phone company error message played back indicating to check the number and dial again).
22. On information and belief, Zhe Li's "green card" has expired and he is no longer entitled to be in the United States.
23. On information and belief, Zhe Li is no longer in the United States and will not be returning to the United States in the foreseeable future.
24. On information and belief, no address for Zhe Li in China is known to Tellme.
25. On information and belief, Zhe Li has been unable to receive Tellme's attempts at communication at the electronic mail address(es) Mr. Li provided to us.
26. On information and belief, if Zhe Li was able to respond to our communications he would do so and would cooperate in completion of the formalities. (See Exhibit 1)

Exhibits

27. On information and belief, Exhibit 1 is an accurate print out of an electronic mail message sent by Zhe Li on or about 17 December 1999 to all Tellme employees.
28. Exhibit 2 is an accurate print out of an electronic mail message sent by the undersigned to the last known electronic mail addresses in Tellme's possession for Zhe Li.
29. Exhibit 3 is a photocopy of a letter sent to Zhe Li by the undersigned on 31 May 2000 both by Federal Express and certified mail (return receipt requested).
30. Exhibit 4 is a photocopy of the Federal Express airbill for the letter of Exhibit 3.
31. Exhibit 5 is a photocopy of the certified mail receipt for the letter of Exhibit 3.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or

imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



Erik Oliver (Registration No. 46,296)
Intellectual Property Counsel
Tellme Networks, Inc.
1310 Villa Street
Mountain View CA 94041

+1 (650) 930-9140

6/9/2000
Date

Erik Oliver

From: Jay (Zhe) Li [zhe_li@tellme.com]
Sent: Friday, December 17, 1999 6:10 PM
To: office@tellme.com
Subject: farewell from Jay Li



Dear All,

Today will be my last day at Tellme. I will be moving back to China in order to stay closer to my family, and pursue my entrepreneurial interests in the Internet market there. It was a very difficult decision on my part - not only a significant portion of my adult life has been spent in the States, but also the fact that Tellme is well poised to ascend to stellar success in the future made it a taxing tradeoff for me. However, I eventually came to the realization that my best competitive advantages and opportunities lie in my home country, where the competition is less fierce, and opportunities still abound for me to build something great. Besides, I need to better take care of my loving and aging parents whom I haven't seen for more than eight years.

I appreciate Tellme's gracious efforts trying to accomodate my personal objectives. And I dearly treasure the experience and the relationships I had with the Tellme folks, and wish everyone the best being part of the amazing "Tellme phenomenon". Hopefully these would continue to grow over time. I have attached my personal contact information below for future correspondence.

Best of luck to you all! It's been a wonderful ride for me, and hopefully an even more rewarding experience for all of you!

Jay Li
650-756-9265 (phone)
zhe_li@firstwater.com

Erik Oliver

From: Erik Oliver [elo@tellme.com]
Sent: Wednesday, May 31, 2000 7:39 AM
To: zhe_li@firstwater.com; jay_zhe_li@yahoo.com
Cc: elo@tellme.com
Subject: Tellme - patent paperwork

Jay:

We need to reach you to have you sign some papers (facsimile is ok, or we can have the couriered to you in China) for patent purposes. This will complete the formalities associated with the cases we filed relating to your time at Tellme.

Please contact me as soon as possible to arrange for signature of the papers.

Regards,
Erik Oliver

(PS: I decided to join Tellme.)

--
Erik Oliver
Intellectual Property Counsel
Tellme Networks, Inc.
1310 Villa Street
Mountain View CA 94041

	+1 (650) 930-9140
Main	+1 (650) 930-9000
Fax	+1 (650) 931-9101
Email	<elo@tellme.com>



May 31, 2000

VIA FEDERAL EXPRESS AND POSTAL MAIL

Jay Li
75 Poncetta Drive, #2
Daly City, CA 94015

Dear Jay:

We are in need of your cooperation in completing some formalities associated with the patent applications we filed relating to your work at Tellme Networks.

Our previous efforts to contact you at the electronic mail addresses you provided us when you departed Tellme have been unsuccessful.

Please contact me so that we can provide you the appropriate paperwork. If you are unwilling to complete the paperwork, please contact me as well and so indicate. My direct line is +1 (650) 930-9140 and I can be reached by electronic mail at <elo@tellme.com>.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Oliver".

Erik Oliver
Intellectual Property Counsel

Exhibit 4


FedEx USA Airbill

 FedEx
Tracking
Number

8195 7224 2818

1 From Please print and press hard.

 Date 5/31/2000 Sender's FedEx Account Number 2132-8590-4

 Sender's Name ERIK OLIVER Phone (650) 930-9140

 Company TELLME NETWORKS INC

 Address 1310 VILLA ST

 City MOUNTAIN VIEW State CA ZIP 94041
2 Your Internal Billing Reference

First 24 characters will appear on invoice.

OPTIONAL

3 To

 Recipient's Name Jay Li Phone (650) 756-9265

 Company —

 Address 75 Poncetta Dr, #2

To "HOLD" at FedEx location, print FedEx address.

We cannot deliver to P.O. boxes or P.O. ZIP codes.

 City Daly City State CA ZIP 94105
NEW Peel and Stick FedEx USA Airbill

See back for application instructions.

Questions? Call 1-800-Go-FedEx® (800-463-3339)

 Visit our Web site at www.fedex.com

By using this Airbill you agree to the service conditions on the back of this Airbill and in our current Service Guide, including terms that limit our liability.

0133952780

Form ID No.	0215	SAC21	Sender's Cop
-------------	------	-------	--------------

4a Express Package Service
☐ FedEx Priority Overnight
Next business morning

☒ FedEx Standard Overnight
Next business afternoon

☐ FedEx First Overnight
Earliest next business morning
delivery to select locations

☐ FedEx 2Day*
Second business day

☐ FedEx Express Saver*
Third business day

 * FedEx Envelope/Letter Rate not available
Minimum charge: One-pound

4b Express Freight Service
☐ FedEx 1Day Freight*
Next business day

☐ FedEx 2Day Freight
Second business day

☐ FedEx 3Day Freight
Third business day

* Call for Confirmation:

* Declared value limit \$

5 Packaging
☒ FedEx Envelope/Letter*

☐ FedEx Pak*

☐ Other Pkg.

Includes FedEx Box, FedEx Tube, and customer pkg.

6 Special Handling
☐ SATURDAY Delivery
Available for FedEx Priority Overnight and FedEx 2Day to select ZIP codes

☐ SUNDAY Delivery
Available for FedEx Priority Overnight to select ZIP codes

☐ HOLD Weekday at FedEx Location
Not available with FedEx First Overnight

☐ HOLD Saturday at FedEx Location
Available for FedEx Priority Overnight and FedEx First Overnight to select locations

Include FedEx address in Section 3.

Does this shipment contain dangerous goods?

One box must be checked.

☒ No

☐ Yes

☐ Yes

☐ Yes

☐ Dry Ice

☐ Dry Ice, 3, UN 1845

☐ Cargo Aircraft Only

Dangerous Goods cannot be shipped in FedEx packaging.

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.

☒ Sender
Acct. No. in Section 1 will be billed.

☐ Recipient

☐ Third Party

☐ Credit Card

☐ Cash/Che

 FedEx Acct. No.
Credit Card No.

 Exp.
Date

Total Packages

Total Weight

Total Declared Value†

1

\$ 100.00

†Our liability is limited to \$100 unless you declare a higher value. See back for details.

FedEx Use Only

8 Release Signature

Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

359

SRP 0100-Rev. Date 8/99-Post #154813-© 1994-99 FedEx-PRINTED IN U.S.A.

Exhibit 5



U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

Jay Li

Postage

\$ 0.33

Certified Fee

1.40

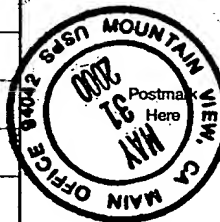
Return Receipt Fee
(Endorsement Required)

1.25

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$ 2.98



Name (Please Print Clearly) (To be completed by mailer)

Jay Li

Street, Apt. No., or PO Box No.

75 Poncetta Dr #2

City, State, ZIP+4

Daly City CA 94015

PS Form 3800, July 1999

See Reverse for Instructions

7099 3220 0000 0226 6607